IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 194 OF 2005

IN

FIRST APPEAL NO. 489 OF 1998

Sunderdas S. Batra ..Appellant

versus

Geeta S. Batra & Ors. ..Respondents

Mr. S. P. Kanuga for the Appellant.

Mr. J. P. Sen i/b. M/s. Desai & Diwanji for the Respondents No.1 to 10.

CORAM : D. G. DESHPANDE,J.

DATE : 2ND SEPTEMBER,2005

P.C. :

1. Heard counsel for the Appellant and the Respondents.

2. Appellant is the purchaser of the property in auction. The respondents are claiming to be tenants originally along with the appellant and basing their claim on that right. Their suit in that regard came to be dismissed by the Small Causes Court so also the appeal. Now the appellant is

widow. She is 62 years of age. Maintaining the property and preserving is botheration for her. Therefore she has filed this application for permission to sell the property, in view of the earlier order of this Court on 23.1.2002.

3. Counsel for the appellant has shown willingness of the appellant to deposit 50% of the sale proceeds in this court for protecting the interest of the respondents. That deposit would be subject to without prejudice to his right to contend that they have no right in the property at all of whatsoever nature.

4. Counsel for the Respondents contended that even their suit and appeal has been dismissed by the Small Causes Court, they have filed Writ Petition in 2004. It is yet to come for admission.

5. Looking therefore to the fact that the appellant is the purchaser in a public auction of the suit property, looking to the age and the inconvenience caused, and looking to the offer given by the counsel for the appellant, this application is allowed and disposed of.

6. The appellant is permitted to sell the suit premises within ten weeks from today. Appellant to

let this court know about his steps taken in this regard and if agreement is entered into, give copy of the same to the court. This is for the purpose to know the Court at what price the property is being sold. Further orders will be passed thereafter. Put up after ten weeks.

2.9.2005 (D.G. DESHPANDE, J.)